

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

*Zareh + Tatine
Tekunovian*

Plaintiff,

- against -

*Shant Hardikossian &
Acorne Productions, LLC*

Defendant(s).

| |
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| USDC SDNY |
| DOCUMENT |
| ELECTRONICALLY FILED |
| DOC #: |
| DATE FILED: 9/22/14 |

SCHEDULING ORDER

14 Civ. 5723(SAS)

Conference Date:

WHEREAS, the Court issued an Order for a Conference in accordance with Fed. R. Civ. P. 16(b) on September 22nd (the "Order"); and
2014

WHEREAS, the Order requires that the parties jointly prepare and sign a proposed scheduling order containing certain information;

NOW, THEREFORE, the parties hereby submit the following information as required by the Order:

- (1) the date of the conference and the appearances for the parties; September 22, 2014
*Jeffrey Morgan (Barney & Thornburg) Tatine Sahakian (Constantine Cannon)
Philip Smaylausky and Shastia Zhou (aricci) for Plaintiffs for Defendants
Shant Hardikossian and Acorne Production*
- (2) a concise statement of the issues as they then appear; Refer to Appendix A
- (3) a schedule including:
 - (a) the names of persons to be deposed and a schedule of planned depositions;
Refer to Appendix A
 - (b) a schedule for the production of documents;
See Appendix A
 - (c) dates by which (i) each expert's reports will be supplied to the adverse side and (ii) each expert's deposition will be completed;
See Appendix A
 - (d) time when discovery is to be completed;
See Appendix A

(e) the date by which plaintiff will supply its pre-trial order matters to defendant;

June 1, 2015

(f) the date by which the parties will submit a pre-trial order in a form conforming with the Court's instructions together with trial briefs and either (1) proposed findings of fact and conclusions of law for a non-jury trial, or (2) proposed voir dire questions and proposed jury instructions, for a jury trial; and

June 1, 2015

(g) a space for the date for a final pre-trial conference pursuant to Fed. R. Civ. P. 16(d), to be filled in by the Court at the conference.

June 15, 2015 Jan 16, 2015 at 4:30 (leave blank)

(4) a statement of any limitations to be placed on discovery, including any protective or confidentiality orders;

See Appendix A

(5) a statement of those discovery issues, if any, on which counsel, after a good faith effort, were unable to reach an agreement;

See Appendix A

(6) anticipated fields of expert testimony, if any;

Film production

(7) anticipated length of trial and whether to court or jury;

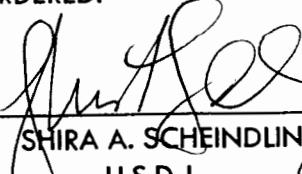
3-5 days

(8) a statement that the Scheduling Order may be altered or amended only on a showing of good cause not foreseeable at the time of the conference or when justice so requires;

(9) names, addresses, phone numbers and signatures of counsel:

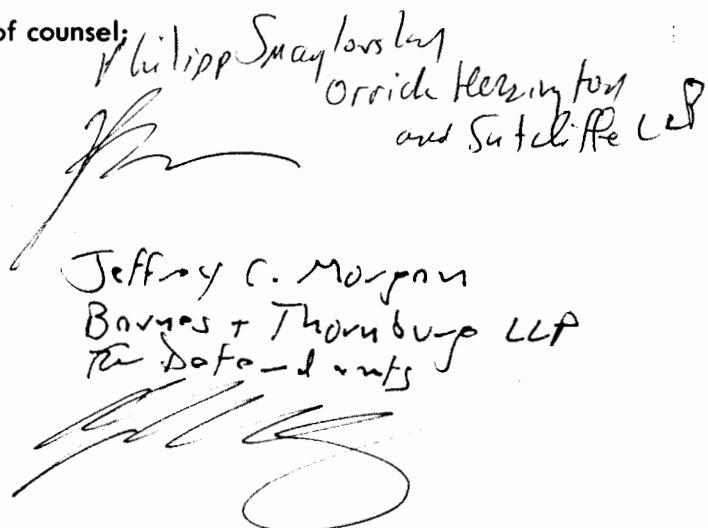
See Appendix A

SO ORDERED:



SHIRA A. SCHEINDLIN
U.S.D.J.

9/22/14


Philip Smaylors
Orrick Herrington
and Sutcliffe LLP

Jeffrey C. Morgan
Bragg & Thorneburg LLP
The Defendants

"A"

**COMMERCIAL DIVISION
PRELIMINARY CONFERENCE ORDER
PURSUANT TO PART 202 OF THE UNIFORM CIVIL RULES
FOR THE SUPREME COURT KINGS COUNTY**

Date Sept 5 2014

| | |
|---|--------------|
| ACORNE PRODUCTIONS, LLC and SHANT MARDIROSSIAN | Plaintiff(s) |
| <u>-against-</u> | |
| ZAREH TJEKNAVORIAN ALINA TJEKNAVORIAN | Defendant(s) |

Index # 502190/2014 (E)

Plaintiff Acorne Productions and Shant Mardirossian are is represented by

Firm: Constantine Cannon LLP

Responsible attorney: Taline Sahakian

Address: 335 Madison Avenue, 9th Floor

E-mail: tsahakian@constantinecannon.com

Telephone: 212-350-2700 Fax: 212-350-2701

Defendant Zareh Tjeknavorian is represented by

Firm: Orrick Herrington & Sutcliffe LLP

Responsible Attorney: Alex V. Chachkes / Philipp Smaylovsky

Address: 51 West 52nd Street, New York, NY 10019

E-mail: achachkes@orrick.com / psmaylovsky@orrick.com

Telephone: 212-506-5000 Fax: 212-506-5151

Defendant Alina Tjeknavorian is represented by

Firm: Orrick Herrington & Sutcliffe LLP

Responsible Attorney: Alex V. Chachkes / Philipp Smaylovsky

Address: 51 West 52nd Street, New York, NY 10019

E-mail: achachkes@orrick.com / psmaylovsky@orrick.com

Telephone: 212-506-5000 Fax: 212-506-5151

Defendant _____ is represented by
Firm: _____
Responsible Attorney: _____
Address: _____
E-mail: _____
Telephone: _____ Fax: _____

Nature of the Case:

(a) Plaintiff's Claims / Counterclaim Defenses

Business dispute related to failure by defendants to make a film after receiving over \$170,000 from Plaintiffs. Claims include Constructive Trust, Promissory Estoppel, Quantum Meruit, Unjust Enrichment, Accounting, Breach of Contract and Injunctive Relief

Amount Demanded: \$ Over \$170,000

(b) Defendant Zareh Tjeknavorian 's Claims / Defenses

The dispute concerns an oral agreement in which Plaintiff Shant Mardirossian promised to make monthly payments to the Defendants and cover expenses incurred for the production of a film. He missed payments, and later repudiated the agreement. Defendants assert a counterclaim for breach of contract, and also seek a declaration that they are owners of all film materials and copyrights.

Amount Demanded: \$ 39,061 (collectively, for both defendants)

Defendant Alina Tjeknavorian 's Claims / Defenses

Defendants also assert that the federal Copyright Act bars Plaintiffs' claims to the film copyrights, an issue that will be decided in a pending federal action. Separately, Plaintiffs quasi-contract and equitable claims are barred because the parties entered into an agreement governing their rights.

Amount Demanded: \$ _____

Defendant _____ 's Claims / Defenses

Amount Demanded: \$ _____

Defendant _____ 's Claims / Defenses

Amount Demanded: \$ _____

IT IS HEREBY ORDERED THAT THIS ACTION IS ASSIGNED TO THE

EXPEDITED STANDARD COMPLEX TRACK

AND DISCLOSURE SHALL PROCEED AS FOLLOWS:

(1) BILL OF PARTICULARS (See CPLR 3130(1)):

(a) Demand for a bill of particulars shall be served by X on or before _____

(b) Bill of Particulars shall be served by X on or before _____

(c) BILL OF PARTICULARS SERVED:

[] Satisfactory

[] Unsatisfactory - because:

(2) DOCUMENT PRODUCTION/ DISCOVERY AND INSPECTION:

(a) All Demands for Discovery and Inspection (CPLR 3120) shall be served not later than September 22, 2014 days from the date of this Order.

(b) All responses to Discovery and Inspection demands shall be served not later than 20 days after receipt of the opposing party(ies) demand(s).

(c) All demands for production of books, documents, records and other writings relevant to the issues in this case shall be deemed to include a demand for production of any photograph(s), audio tape(s), video tape(s), computer disk(s) or program(s) and e-mail. The failure to comply herewith may result in preclusion from the introduction of such evidence.

(3) INTERROGATORIES: Limited to 25 questions per party

(a) Interrogatories shall be served by both parties on or before September 22, 2014.

(b) Answers to interrogatories shall be served by both parties on or before 20 days.

Requests for Admission shall be served on or before November 21, 2014. There shall be a limit of 50 Requests for admission per side, with unlimited requests for authentication or documents.

Responses to RFAs will be due within 20 days of service.

(4) DEPOSITIONS: To be held as follows:

(Priority shall be in accordance with CPLR 3106 unless otherwise agreed or ordered)

| Party | Date | Time | Place |
|--------------------|------|------|--------------------|
| Shant Mardirossian | | | Orrick Herrington |
| Alina Tjeknavorian | | | Constantine Cannon |
| Zareh Tjeknavorian | | | Constantine Cannon |
| Experts (TBD) | | | |
| | | | |
| | | | |

FAILURE TO APPEAR FOR DEPOSITION AS SCHEDULED WILL BE DEEMED A WAIVER.
FAILURE TO PRODUCE A SPECIFIED WITNESS FOR DEPOSITION WILL PRECLUDE
SUCH WITNESS'S TESTIMONY AT TRIAL ON BEHALF OF THE PARTY FAILING TO
PRODUCE. SUCH PARTY MAY ALSO BE DEEMED TO HAVE WAIVED THE DEPOSITION
OF THE OPPOSING PARTY.

(5) OTHER DISCLOSURE:

(a) Commissions or letter rogatory (CPLR 3108): Identify and set forth the

location of each witness:

Richard Hunter, Albuquerque

(b) Expert disclosure (CPLR 3101[d])
Party bearing burden Plaintiff(s) shall provide expert disclosure by January 15, 2015

Party Defendant(s) shall provide expert disclosure by February 12, 2015
responsive

(6) PRESERVATION OF ELECTRONIC EVIDENCE:

(a) The term ESI shall include, but not be limited to, e-mails and attachments, voice mail, instant messaging and other electronic communications, word processing documents, text files, hard drive spreadsheets, graphics, audio and video files, databases, calendars, telephone logs, transaction logs, internet usage files, offline storage or information stored on removable media, information contained on laptops or other portable devices and network access information and backup materials, Native Files and the corresponding Metadata which is ordinarily maintained.

(b) Within 10 days of the execution of this PC Order, all signatories hereto shall, in compliance with Rule 8(b) of the Uniform Commercial Division Rules (22 NYCRR 202.70), submit to the Court a copy of the agreed written plan/stipulation for the preservation of ESI related documents, data and tangible things reasonably anticipated to be subject to discovery in this action. Such plan, which may be updated, shall identify the categories of ESI to be preserved, individuals responsible for preservation, maintenance and production of ESI and issues relating to potential costs of maintenance, preservation and production of ESI. In the alternative, counsel may stipulate to limit and/or eliminate the discovery of ESI in whole or part and/or forego or

limit the production of information in electronic form. A copy of such stipulation must be submitted to the court within 10 days of this Order.

(c) For the relevant periods relating to the issues in this litigation, each party shall take all reasonable steps (including suspending aspects of ordinary computer processing and/or backup of data that may compromise or destroy ESI) necessary to maintain and preserve such ESI as may be (i) relevant to the parties' claims and/or defenses, or (ii) reasonably calculated to lead to the discovery of admissible evidence, including but not limited to all such ESI data generated by and/or stored on the party's computer system(s) and/or any computer system and storage media (i.e., internal and external hard drives, hard disks, floppy disks, memory sticks, flash drives and backup tapes), under the party's possession, custody and/or control. The failure to comply herewith may result in appropriate sanctions or such other relief as the court may be authorized to impose or award, including but not limited to precluding use of evidence, taking adverse inferences, and/or rendering judgment in whole or part against the offending party(ies).

(d) (i) When ESI is produced, it shall be produced on appropriate electronic media (i.e. CD, DVD or portable hard-drive) in the following format(s), as may be agreed:

Digital images endorsed with numbers and confidentiality legends, searchable text and agreed to metadata fields with regard to the following data:

Electronic mail. Defendants' initial production did not contain metadata, but Defendants will make any future productions with agreed upon metadata fields. *Plaintiff requests metadata and reserves right to seek.*

Native Format with metadata intact and, as appropriate under the circumstances, endorsed with numbers and confidentiality legends with regard to the following data:

The following format, as agreed by the parties, with regard to the following data:

(ii) In the absence of an agreement by the parties, the court shall direct the manner of production upon application of the party(ies).

(e) Issues with regard to cost shifting shall be brought to the attention of the Court as soon as practicable.

(7) CONFIDENTIALITY/NON-DISCLOSURE AGREEMENT:

(a) In the event that there is a need for a Confidentiality/Non-Disclosure Agreement prior to disclosure, the party(ies) demanding same shall prepare and circulate the proposed agreement. If the party(ies) cannot agree as to same, they shall promptly notify the Court. The failure to promptly seek a confidentiality agreement may result in a waiver of same.

(b) Defendants Zareh and Alina Tjeknavorian anticipates the need for a

Confidentiality Agreement as to the following issues; to protect the privacy of third-party Armenian Genocide witnesses, survivors, and their descendants, who gave the Tjeknavorians access to private papers, and to protect materials authored by the Tjeknavorians from misuse by Plaintiffs. Plaintiffs have threatened to take these materials and others created and compiled by the Tjeknavorians and use them to make a competing film.

(8) DISCOVERY - RELATED DISPUTES:

Issues relating to disclosure shall be resolved between counsel without Court intervention whenever possible. If Court intervention becomes necessary, a conference call may be arranged with the Judge or Law Clerk pursuant to Kings County Commercial Division Rule 18 and must take place prior to any motions being made.

(9) INSURANCE COVERAGE (IF APPLICABLE): _____

(10) IMPLAIDER: Shall be completed on or before _____

(11) END DATE FOR ALL DISCLOSURE: November 21, 2014 For Fact Discovery
March 13, 2015 For Expert Discovery

(12) ALTERNATIVE DISPUTE RESOLUTION:

Requested
 Declined

(13) COMPLIANCE CONFERENCE: Shall be held on November 7, 2014

(14) NOTE OF ISSUE: A note of issue/certificate of readiness shall be filed on or before 5/1/2015. Failure to file a note of issue by this date may result in the dismissal of this action.

(15) MOTIONS: Any dispositive motion(s) shall be made returnable on or before April 15, 2015

(16) FINAL SETTLEMENT CONFERENCE: A final settlement conference, at which the parties must be present, shall be held on May 1, 2015

THE DATES SET FORTH HEREIN MAY NOT BE ADJOURNED OR MODIFIED EXCEPT WITH APPROVAL OF THE COURT.

IN THE EVENT OF NON-COMPLIANCE WITH THE TERMS OF THIS ORDER, COSTS OR OTHER SANCTIONS MAY BE IMPOSED, INCLUDING PRECLUSION OF EVIDENCE.

IF A SETTLEMENT IS REACHED, THE COURT SHALL BE PROMPTLY NOTIFIED AND A COURTESY COPY OF THE STIPULATION OF DISCONTINUANCE SHALL BE PROMPTLY FORWARDED TO THE COURT. PLAINTIFF IS RESPONSIBLE FOR FILING THE STIPULATION WITH THE COUNTY CLERK AND SHALL PAY THE FEES UNLESS OTHERWISE AGREED BETWEEN THE PARTIES AS PART OF

THE WRITTEN STIPULATION.

ADDITIONAL DIRECTIVES:

1. Document productions on currently pending discovery requests shall be completed by August 29, 2014 *Film materials & weeks from conversion MAC to PC*
In the event that Plaintiffs' Motion for Preliminary Injunction is fully submitted, Defendants'
2. Opposition to Plaintiffs' Motion for Preliminary Injunction shall be filed by September 19, 2014. Plaintiffs' Reply shall be filed by October 3, 2014
3. Document productions on all pending requests shall be completed by October 31, 2014
4. Fact discovery will be complete by November 21, 2014
5. Expert discovery will be complete by March 13, 2015
The parties agree to a limit of 2 expert witnesses per side

THE PARTIES HAVING APPEARED FOR A PRELIMINARY CONFERENCE ON THIS DATE HAVE REVIEWED THE TERMS AND/OR CONDITIONS OF THIS ORDER AND HEREBY AGREE TO SAME.

ATTORNEY *[Signature]* FOR PLAINTIFF: Acorne Productions and Shant Mardirossian
ATTORNEY *[Signature]* FOR DEFENDANT: Zareh and Alina Tjeknavorian
ATTORNEY *[Signature]* FOR DEFENDANT:
ATTORNEY _____ FOR DEFENDANT:
ATTORNEY _____ FOR DEFENDANT:
ATTORNEY _____ FOR DEFENDANT:

SO ORDERED:
Dated: 9/5/14.

J.S.C.

HON. LAWRENCE KNIPEL
SUPREME COURT JUSTICE

2014 SEP -8 AM 8:51
JUDGE'S CLERK